

Order

Michigan Supreme Court
Lansing, Michigan

May 13, 2011

Robert P. Young, Jr.,
Chief Justice

141745

Michael F. Cavanagh
Marilyn Kelly
Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 141745
COA: 298839
Wayne CC: 09-018198-01-FJ

LIONEL ERIC TURNER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the August 4, 2010 order of the Court of Appeals is considered and, pursuant to MCR 7.302(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Wayne Circuit Court for further proceedings consistent with MCR 6.310(C).

Although the plea agreement negotiated between the prosecutor and defendant was not predicated upon a statement by the Court that it would sentence defendant to a specified term or within a specified range, see *People v Cobbs*, 443 Mich 276 (1993), the circuit court gratuitously “promised” that it would sentence defendant to “the low-end of the guidelines” range if defendant “entered into” the plea. After acknowledging and accepting the circuit court’s promise, defendant entered guilty pleas to kidnapping, carjacking, armed robbery, five counts of first-degree criminal sexual conduct, second-degree criminal sexual conduct, and felony firearm. However, at sentencing, the circuit court imposed a sentence at the high end of the sentencing guidelines range.

Because of the unique facts of this case, we REMAND this case to the Wayne Circuit Court for further proceedings consistent with MCR 6.310(C).

We do not retain jurisdiction.

MARILYN KELLY, J. (*concurring in result*).

I concur in the result of the Court’s order. I would explicitly vacate defendant’s sentence and direct the trial court to sentence defendant at the low end of the guidelines range pursuant to its “promise” or provide defendant the opportunity to withdraw his plea.



d0510

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 13, 2011

Corbin R. Davis

Clerk